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SENATE BILL 1124

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

FERNANDO R. MACIAS

FOR THE COURTS, CORRECTIONS AND CRIMINAL JUSTICE COMMITTEE

AN ACT

RELATING TO CAPITAL FELONY SENTENCING; REQUIRING A PROSECUTING ATTORNEY TO PROVIDE NOTICE OF HIS INTENT TO SEEK A SENTENCE OF DEATH IN A CAPITAL FELONY CASE; ENSURING ADEQUATE LEGAL REPRESENTATION FOR DEFENDANTS FACING A SENTENCE OF DEATH; ENACTING A NEW SECTION OF THE NMSA 1978; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of Chapter 31, Article 20A NMSA 1978 is enacted to read:

"[NEW MATERIAL] NOTICE OF INTENT TO SEEK A SENTENCE OF DEATH-- APPOINTMENT OF ATTORNEYS FOR DEFENDANTS FACING A SENTENCE OF DEATH. --

A. If the prosecuting attorney in a capital felony case concludes that the circumstances of the capital felony are

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1 such that the imposition of a sentence of death for the  
2 defendant is justified, the prosecuting attorney shall, within  
3 twenty days of arraignment unless extended by the court for good  
4 cause shown, sign and file with the court and serve on the  
5 defendant a notice that states the following:

6 (1) that the state has concluded that the  
7 circumstances of the capital felony are such that, if the  
8 defendant is found guilty of the capital felony, the imposition  
9 of a sentence of death is justified and the state will seek a  
10 sentence of death for the defendant; and

11 (2) a summary of the aggravating circumstances  
12 the state will attempt to prove to support the imposition of a  
13 sentence of death for the defendant.

14 B. The court may permit the prosecuting attorney to  
15 amend the notice upon a showing of good cause.

16 C. Upon the filing of a notice of intent to seek a  
17 sentence of death in a capital felony case by the prosecuting  
18 attorney, the court shall appoint at least two attorneys to  
19 represent the defendant in the capital felony case. One of the  
20 appointed attorneys shall be experienced and knowledgeable in  
21 the substantive and procedural law regarding capital felony  
22 cases, determined pursuant to criteria adopted by the supreme  
23 court.

24 D. If an appointed attorney is not a full-time  
25 employee of the public defender department, the court shall

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1 order compensation for the attorney's services in the capital  
2 felony case at the rate provided to attorneys for contractual  
3 services rendered to the state pursuant to the Tort Claims Act.

4 E. The court may approve, during an ex parte  
5 hearing, a request by an appointed attorney to receive payment  
6 for the purpose of providing investigative and expert assistance  
7 to a defendant in a capital felony case, provided the court  
8 finds that the investigative and expert assistance is reasonably  
9 related to providing effective assistance of counsel to the  
10 defendant. "

11 Section 2. EFFECTIVE DATE. --The effective date of the  
12 provisions of this act is July 1, 1997.

1 FORTY-THIRD LEGISLATURE  
2 FIRST SESSION, 1997  
3  
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5 March 10, 1997  
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7 Mr. President:  
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9 Your JUDICIARY COMMITTEE, to whom has been referred  
10

11 SENATE BILL 1124  
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13 has had it under consideration and reports same with  
14 recommendation that it DO PASS.  
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16 Respectfully submitted,  
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21 Fernando R. Macias, Chairman  
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25 Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_  
(Chief Clerk) (Chief Clerk)

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Date \_\_\_\_\_

The roll call vote was 6 For 1 Against

Yes: 6

No: Vernon

Excused: Sanchez

Absent: None

S1124JU1